

EXAMINATION OF THE MERTON LOCAL PLAN

Inspectors: R J Aston BSc (Hons) DipTP MRTPI

G J Fort BA PgDip LLM MCD MRTPI

Programme Officer: Ms Carmel Edwards

Tel: 07969 631 930 **Email:** programmeofficer@carmeledwards.com

Inspectors' Response to the Council's Proposed Changes to Main Modifications

Preamble

1. We thank-you for your documents responding to the points raised in the consultation on the Main Modifications (MMs) and related material which took place earlier this year.
2. In your response, you have suggested some changes to the MMs, and have also suggested what would amount to a new MM. In what follows, and where necessary, we make reference to the row numbers of the LBM47 spreadsheet, which contains your responses to consultation and suggestions for changes.
3. The statutory basis of MMs is set out in s20(7C) of the Planning and Compulsory Purchase Act 2004. MMs are those which, taken individually or together, affect a plan's policies or how they are implemented. Only appointed Inspectors have the power to recommend MMs, and can only do so where they are necessary to secure the soundness or legal compliance of a plan.
4. There is also a clear distinction between MMs and Additional Modifications (AMs). AMs are those which, taken individually or together do not affect a plan's policies or how they are implemented and can include typographical corrections, formatting amendments and factual updates, amongst other things. Inspectors have no power to recommend AMs, but local planning authorities can make them on adoption of a plan where they are minded to do so (see the Planning Inspectorate's 'Procedure Guide for Local Plan Examinations' (the Procedure Guide) at paragraph 1.4).
5. The Procedure Guide (at Section 6) gives further guidance on the preparation of and consultation on MMs. It is clear that *all* proposed MMs must be subject to public consultation, and where necessary, sustainability appraisal and habitats regulations assessment before Inspectors can make recommendations on them (at paragraph 6.7).

6. Paragraph 6.12 of the Procedure Guide is clear that in making recommendations on MMs, Inspectors will normally consider them in the form that they were published for consultation. Whilst changes can be made to MMs in the light of consultation responses, they may in themselves require further consultation should Inspectors consider that parties may be prejudiced otherwise.
7. Furthermore, the Secretary of State (in the 'Local Plans' Written Ministerial Statement (WMS) of 21 July 2015 and related letters of [21 July 2015](#) and [18 June 2019](#)) expects Inspectors to conduct examinations in a pragmatic and solutions-orientated manner with the objective of securing the adoption of up-to-date plans an important consideration (per paragraph 15 of the National Planning Policy Framework (the Framework)) This approach includes finding ways to ensure that a Local Plan is not unnecessarily delayed by seeking to resolve matters which are not critical to a plan's soundness or legal compliance as a whole.
8. We have already recommended that a Further Main Modification (FMM) is required in relation to Metropolitan Open Land boundaries, which requires related consultation on changes to the policies map. Aside from this, we consider that other FMMs, and any associated consultation, are not necessary to ensure soundness or legal compliance.

Discrepancies between LBM29 and LBM31

9. There appear to be some discrepancies between the LBM29 Schedule of MMs, and the Council's tracked changes version of the Plan (LBM31). For the avoidance of doubt, the MMs that we recommend are those that are contained in the LBM29 Schedule. The Council should be satisfied that the version of the Plan that is adopted reflects the LBM29 Schedule, rather than the LBM31 document.

Council's proposed post-consultation changes

10. We have considered your suggested changes in the light of the principles set out in paragraphs 1 to 8 above and have come to the following conclusions. Aside from where specifically indicated we are not seeking any further comments on the following matters at this stage.

The December 2023 National Planning Policy Framework

11. The September 2023 version of the Framework remains the relevant national policy for the examination (see paragraph 230 of the December 2023 version of the Framework). Consequently, due to the transitional arrangements set out in national policy, it would not be appropriate, from a soundness point of view, to amend references in the Plan to refer to any altered paragraph numbering in the latest version of the Framework. In any event, the Framework, as an expression of national policy is updated from time to time, so any references to paragraph numbers are likely to become out of date at some point.

12. The Council may wish to consider whether any changes could be made by way of AM were it minded to do so. We will not be altering any Framework paragraph numbers in the MM Schedule appended to our Report.

Good Growth

13. It is unclear as to whether any additional change is proposed in row 64 of your spreadsheet. However, the type of changes suggested by the representor are factual in nature and could be made by way of AMs were the Council minded to make them.

Suggested update to housing trajectory

14. Our overall approach to housing delivery matters is based on the trajectory as presented in the MM schedule in the light of supporting evidence made available during the course of the examination. Housing delivery evidence thus far produced has been subject to scrutiny by us, and available for discussion at the hearing sessions and also was available for subsequent public consultation.
15. Change to the trajectory at this stage would be a substantive one which would require further consultation as the background evidence that supports these alterations has not been made available to the examination. It follows that any consultation would also need to be accompanied by publication of any evidence in support of the proposed changes. Moreover, updates on housing delivery performance will be a legitimate part of plan monitoring, and are therefore likely to be relevant considerations in the determination of any planning applications post-adoption of the Plan.
16. For these reasons, we consider the proposed amendment to **MM161** to be unnecessary, and that the MM as drafted secures a sound approach to this matter.

Policy D12.6 Tall Buildings

17. The amendment you have proposed to **MM251** is necessary to refer to 'uppermost storey' and not '*the top of the building's last habitable floor*', in order to be consistent with **MM239** which provides the definition for tall buildings in the initial sentence of the relevant policy. We will therefore include this change to **MM251** in the schedule that will accompany our Final Report. As this relates to a minor correction in the interests of consistency and clarity, and the point has been adequately covered in the consultation, no material prejudice would occur to the interests of any parties, and the change can be done without the need to seek any further representations.

Site allocation CW2

18. In terms of Britannia Point we have made our position clear that the evidence submitted in the examination does not support its position as a 'pinnacle

building'. The MMs, as drafted, would secure a design-led approach that seeks to maximise housing output. Moreover, the London Plan and other policies of the Plan taken together would provide a suite of policies to ensure that the wider environmental effects of proposals would be taken into account. Critically, the MMs suggest that an appropriate height of around *15 storeys* might be achievable on the CW2 site, again subject to design coding exercises. This indicative height is lower than that of Britannia Point, which is 19 storeys high. On this basis, we see no soundness reasons to alter the MMs.

19. The emphasis of the MMs as presented is on securing an evidence-based and design-led approach to the site, which is within an Opportunity Area for the purposes of the London Plan. Critically, they should also be seen in the wider context of a Plan that is significantly under-delivering against the London Plan ten-year target.
20. We also point out that MMs made to the stepped trajectory would better enable the Council to secure a five year supply on adoption than the requirement figures as submitted. This means that, taken together, the MMs would provide a robust basis for a plan-led approach to the CW2 site.
21. These reasons, lead us to the view that the further suggested changes to the MMs relating to allocation CW2 are not needed to ensure the soundness of the Plan, and we will not therefore be recommending them.

The Wimbledon Strategic Heights Diagram

22. The Strategic Heights Diagram introduced by way of MM is clear that it provides an *indicative* location for tall buildings – a location where such buildings '*could be appropriate*'. In combination with the approach in Policy N9.1 and D12.6 as modified, taken together with London Plan policies on tall buildings and other relevant matters, the development plan would ensure that things such as heritage assets, design, public realm and architecture would be taken into account in the assessment of relevant proposals. Moreover, at the application stage, the Wimbledon Futures Supplementary Planning Document (SPD) would also be relevant. The SPD is clear that heights it illustrates on relevant maps are to be treated as 'guidance'. Policy D12.6 (as modified) also makes provision for appropriate design-led approaches to avoid abrupt transitions between scales in the vicinity of tall building locations.
23. The emphasis of the Plan, as modified, is on securing an evidence-based and design-led approach to this area, where at this stage, and in light of evidence received, it would not be practicable to reflect with more accuracy the final siting or location of any and all proposals, or to set out more rigidly drawn boundaries. Consequently, as modified, the policies, allocations and Strategic Heights Diagram provide an effective and justified design-led approach to development within the indicative tall building locations.

24. These reasons lead us to the view that the further suggested changes to the MMs relating to the Strategic Heights Diagram for Wimbledon are not needed to ensure the soundness of the Plan, and we will not therefore be recommending them.

Wi1 – Battle Close

25. The MM Schedule as consulted on contains no changes to the site capacity for the Wi1 Battle Close site. We have therefore not recommended any changes to the site capacity as it appeared in the Regulation 19 version of the Plan.

Site Allocation Wi3 and Wimbledon Park

Further Main Modification

26. A FMM is needed to replace the map in **MM115** (appendix) to show no change to the existing MOL boundaries, as we have set out in our previous correspondence (of 11 June 2024).

Alterations to MM115

27. Factual corrections and references to change the ward from Wimbledon Park to Village are necessary for clarity. A factual update to **MM115** is also necessary to update the Site Description by deleting paragraph 6. Further, a change to the site deliverability timescales and site description are necessary as factual updates and corrections. An amendment is also required to refer to the Wi3 site only and not 'all sites'. A factual correction of **MM115** is also required to remove reference to Archaeological Priority Zone in the relevant design and accessibility guidance.

28. We agree that the proposed changes to **MM115** in terms of infrastructure requirements would avoid unnecessary repetition and ensure that the policy is justified in these terms. The amendment to correct the number of tennis courts within Wi3 has resulted from clarification with the All England Lawn Tennis Club, is a factual update to the number of courts present on the site and can be included in **MM115** in the interests of clarity. We also agree that the changes to paragraphs 14.3.9 and 14.3.40 are required to make references to Site RP5, which is an associated facility, as factual updates in the interests of clarity.

29. All of these matters have been covered adequately in consultation responses, and relate to relatively minor corrections and clarifications. It follows that no further consultation is therefore required on them. We will make the changes as set out above in the schedule of MMs that will accompany our Report.

MM112

30. We agree that the reference to Horse Close Wood should be amended as suggested in the interests of clarity, and will make this change in the MM

Schedule appended to our Report.

31. The criteria introduced by **MM112** clearly follow the introductory wording of the policy and amendments to their wording are not therefore needed to ensure clarity. Moreover, heritage policies of this Plan and the London Plan relate to wider conservation issues, and further amendment of **MM112** is not therefore necessary to secure effectiveness or consistency on these issues. Landscape management issues are effectively covered in the policy (particularly criteria b and c) and supporting text as presented in **MM112**, and no further alterations are therefore necessary.
32. The change to paragraph 8.1.3 to provide an update on the status of an associated planning application is not required to ensure the soundness of the Plan. Planning policies are concerned with the development and use of land and the assessment of any relevant proposals for such activities. Consequently, the suggested change to the first sentence of 8.1.17 of **MM112** also is not required for soundness reasons.

Policy O15.3 - Biodiversity and Access to Nature

33. The suggested modification of **MM293** would change the wording along with a new MM to include a table of mitigation measures as an appendix to the Plan. However, the changes are not required for soundness reasons because the strategy is likely to be a material consideration in the assessment of any relevant proposals without the need for a specific reference to it in the Plan. Further, Policy SI5 Water Infrastructure of the London Plan expects development proposals to seek to improve the water environment. For these reasons, the further suggested changes to the MMs relating to the supporting text of Policy O15.3 are not needed to ensure the soundness of the Plan, and we will not therefore be recommending them.

Policy H11.1 - Housing Stock and Choice

34. Modifications proposed¹ would ensure the wording of Policy H11.1 and its supporting text is in conformity with the London Plan and national policy in terms of the tenure mixes sought, the application of the 'Fast Track Route' to assessing affordable housing contributions, and minimum requirements for First Homes, as expressed in the 'Affordable Homes Update' WMS of 24 May 2021. They would also clarify requirements relating to when off-site provision of affordable homes might be appropriate in a manner consistent with national policy (per paragraph 63 of the Framework) and London Plan Policy H4. Moreover, taken together the MMs we have recommended set out clear approaches to viability, including where further advice is to be provided on this in relation to small sites.

¹ MM138 to MM149

35. Critically, the London Plan is part of the development plan, which is to be taken as a whole, and associated London-wide guidance is likely to be a relevant consideration at the application stage. Consequently, it is not necessary to make specific references to these documents as suggested. Accordingly, we will not be recommending any further changes to the modifications.

Policy H11.2 - Housing Provision

36. An amendment is proposed to **MM150** intended to ensure clarity and consistency with the London Plan. However, the London Plan is part of the development plan and associated guidance documents cited are likely to be relevant material considerations at the application stage. It is not therefore necessary to make specific reference to these matters in the Plan. Accordingly, this change is not necessary for clarity or consistency and is not therefore required for reasons of soundness.

37. The proposed change to **MM191** to add text relating to the application of a clawback mechanism in the supporting text of the Build to Rent policy is also not required. This is again because the London Plan is part of the development plan, and the National Planning Practice Guidance is a material consideration. They do not therefore need to be specifically referenced in the Plan to secure its soundness. Accordingly, we will not make any further alterations to these MMs.

Policy H11.5 - Student Housing

38. Amendments are suggested to **MM174** and **MM180** by adding further text on accessibility for student accommodation. However, the Plan contains other policies on active travel that address accessibility requirements for development proposals subject to MMs as proposed (**MM137**). As the development plan is to be read as a whole, these changes are not required for soundness. It follows that we will not be recommending further alteration to the MMs.

Policy T16.4 - Parking and Low Emissions Vehicles

39. An amendment is proposed to be added to **MM343** relating to low emission vehicles to refer to proposals not compromising highway safety, pedestrian amenity and increased flood risk, from 'all sources'. However, taken together with other policies in the Plan the wording is not needed and no further changes are necessary in our view to ensure soundness.

Policy D12.3 – Ensuring high quality design for all developments

40. The suggested changes are already covered by design and transport policies of this Plan and the London Plan. Moreover, Transport for London documents are likely to be material considerations that would be taken into account when considering relevant development proposals, regardless of whether they are

referenced in the Plan. It follows that no further changes are needed to secure the soundness of the Plan.

Policy IN14.1 - Infrastructure

41. The proposed change to **MM287** is not necessary for reasons of soundness because planning obligations would have to meet the relevant legislative tests (set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010) regardless of whether there is a specific reference to those tests in the Plan.

Policy EC13.5 – Merton’s Town Centres and Neighbourhood Parades

42. It is unclear what the amendment proposed to the map formatting is and why it is necessary for soundness, particularly as the Plan relates to the development and use of land within the Borough’s administrative area rather than that within neighbouring local authority boundaries.

References to Walking and Cycling

43. You have suggested changes in row 212 of the LBM42 spreadsheet relating to the whole Plan insofar as it relates to access and transport issues.
44. A number of policies reflect the need for inclusive design in relation to highways and the public realm. This includes Policy T16.2 which refers specifically to safe and convenient access routes for those with a disability. Policy T16.3 requires development proposals to address the needs of people with disabilities and reduced mobility in relation to all modes of transport, and that safe and suitable access should be provided to sites for all users.
45. Policy HW10.1 also seeks to ensure that neighbourhoods are inclusive and accessible for all and Policy D12.1(f) states that development will be supported if it “supports the needs of all Merton’s communities through creating sustainable buildings, spaces and environments that are well-managed, accessible, inclusive”. Moreover, Policy D12.2 expects accessible, inclusive and intergenerational public realm to be provided considering the access needs of all Merton’s communities including the particular needs of people with disabilities.
46. Taken together, these policies provide an appropriate plan-led approach to the delivery of inclusive environments and the further amendment you have proposed is not therefore required for reasons of soundness.

Boundary Map for Site MOL-05-Copse Hill

47. It is not clear to us why the change to **MM353** is necessary for soundness purposes and in any event the text refers to the 'former' Wilson Hospital. We are not minded to take this change forward.

Monitoring

48. To address the lack of a target in Table 17.1 relating to development involving a loss or net gain of sports and recreational facilities, the changes would add a target, trigger for action and contingency to Section 14 of the table. We agree that this is necessary to secure the effectiveness of the monitoring framework. It is our view that the change can be made without further consultation as no prejudice is likely to occur and the point has already been adequately expressed.

49. For similar reasons, the change to **MM350** and Section 20 of the monitoring table are necessary to secure consistency with the Framework in regard to the vitality and viability of existing town centres.

50. We will make the changes as suggested in the MM Schedule appended to our Report.

Additional Modifications

51. A number of other suggested changes do not appear to us to be necessary for reasons of soundness. However, it would be for the Council to decide whether it should make such changes as AMs.

52. They are as follows and referenced as per the row numbers on the LBM42 spreadsheet:

Nos. 21, 41, 208, 235, 249, 279, 318, 375, 421, 491, 497, 498, 499, 500, 503, 515, 557, 558 and 573.

Next Steps

53. We will make the necessary changes, specifically highlighted above², to the MMs Schedule that is appended to our Report. The Further Main Modification Schedule will be attached as an appendix alongside that.

Conclusion

54. It follows that the approach set out above provides a pragmatic basis for concluding the examination in as timely a manner as possible, in the interests of securing plan-led development of the area. We therefore intend to issue

² By underlining in the body text

our Final Report on this basis as soon as is practicable.

55. We trust that the above is clear. As ever, if any further clarification is required, please do not hesitate to contact us.

Yours sincerely,

RJ Aston

GJ Fort

INSPECTORS

30 July 2024